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**FILED**

OCT 28 2014

RICHARD W. WEICKN  
CLERK, U.S. DISTRICT COURT  
**NORTHERN DISTRICT OF CALIFORNIA**

9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA; AND )  
14 THE STATES OF CALIFORNIA AND )  
15 NEVADA ex rel. KATHLEEN HAWKINS, ) No. CV 09-5604 JCS (LB)  
16 Plaintiffs and Relator, )  
17 v. )  
18 CATHOLIC HEALTHCARE WEST, itself, )  
19 and d/b/a )  
20 St. Joseph's Hospital and Medical Center, ) UNITED STATES' NOTICE OF ELECTION  
and d/b/a Barrow Neurological Institute, ) TO INTERVENE; [PROPOSED] ORDER  
and d/b/a/ Mercy Gilbert Medical Center, )  
and d/b/a/ Chandler Regional Medical )  
Center; ET AL, )  
Defendants. )  
\_\_\_\_\_  
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(FILED UNDER SEAL)

22 1. Pursuant to 31 U.S.C. §§ 3730(b)(2) and (b)(4), the United States hereby notifies the

23 Court of its decision regarding intervention in this False Claims Act *qui tam* action. The United States  
24 hereby elects to intervene in this action.

25 2. The parties have entered into a Settlement Agreement in this case. The parties are in the  
26 process of executing a Settlement Agreement in this case, but final signatures were not obtained by  
27 today's intervention deadline. Defendants' payment under the Settlement Agreement is due ten days  
28 from the date of full execution. Under the terms of the Settlement Agreement, after receiving payment,

the United States and the Relator, Kathleen Hawkins, will file a stipulation of dismissal in this action pursuant to the terms and conditions of the Settlement Agreement.

3. The United States requests that the Court unseal: (1) Relator's Complaint; First Amended Complaint; and Second Amended Complaint; (2) the summons; (3) the scheduling order; (4) this Notice of Election to Intervene, with (Proposed) Order to Unseal; and (5) all other matters occurring in this action after the date the Court enters the unsealing order. The United States requests that all other contents of the Court's file in this matter (including, but not limited to, any applications filed by the United States and/or States for extensions of the sixty-day investigative period, any applications for partial lifting of the seal, and any orders previously entered in this matter) remain under seal and not be made public or served upon Defendants.

4. The parties do not anticipate any obstacles to executing the Settlement Agreement within approximately the next week. All that remains to be done is for the parties to obtain the final signatures on the agreement, for the Defendants to make payment under the agreement within ten days of the date of full execution, and for the Plaintiffs to dismiss the case. Therefore, we respectfully suggest the following procedure, which is set out in the accompanying proposed order: By October 31, 2014, the United States would file a status report advising the Court whether the Settlement Agreement has been fully executed. Should the agreement be fully executed by October 31, 2014, the Plaintiffs would then file a dismissal by November 10, 2014 (after receiving Defendants' settlement payment), or alternatively, would file a status report by that date, explaining why the case is not being dismissed as currently anticipated.

Respectfully submitted,

MELINDA HAAG  
United States Attorney

DATED: October 24, 2014

By:

**ILA C. DEISS**  
**ERICA B. HITCHINGS**  
Assistant United States Attorneys  
Attorneys for the United States of America

1 [PROPOSED] ORDER  
2

3 Upon consideration of the United States' Notice of Election to Intervene, the Court rules as  
4 follows.

5 IT IS ORDERED that:

6 1. The seal shall be lifted as to the Relator's Complaint; First Amended Complaint and  
7 Second Amended Complaint; the summons; the scheduling order; this Order and the accompanying  
United States' Notice of Election to Intervene; and all subsequent filings in this action.

8 2. All other previously filed contents of the Court's file in this action shall remain under seal  
9 and not be made public or served upon the Defendants.

10 3. By October 31, 2014, the United States shall file a status report advising the Court  
11 whether the settlement agreement has been fully executed.

12 4. By November 10, 2014, the United States and Relator shall file a dismissal, or,  
13 alternatively, a status report explaining why the case is not being dismissed as currently anticipated.

14 IT IS SO ORDERED.  
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16 Dated: 10/28/2014

17 HONORABLE JOSEPH C. SPERO  
18 United States Magistrate Judge  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SEALED,

No. 3:09-CV-5604 JCS

Plaintiff(s),

SEALED  
CERTIFICATE OF SERVICE

v.

SEALED,

Defendant(s).

/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 28, 2014, I SERVED a true and correct copy of the attached, by placing said copy in a postage paid envelope addressed to the person(s) listed below, by depositing said envelope in the U.S. Mail; or by placing said copy into an inter-office delivery receptacle located in the Office of the Clerk.

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Nolan and Auerbach, P.A.  
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Novato, CA 94945

Ila C. Deiss  
Asst.US Attorney  
450 Golden Gate Ave.  
Box 36055  
San Francisco, CA 94102

Dated: October 28, 2014

RICHARD W. WIEKING, CLERK

BY: Karen L. Hom  
Karen L. Hom, Courtroom Deputy